

REMARKS

Claims 1-19 are all the claims pending in the application.

Double Patenting

Claims 1-19 are rejected under the judicially created doctrine of obviousness double patenting as being unpatentable over claims 1-9 of USP 6,648,535. This rejection is traversed for at least the following reasons.

First, the present application is a continuation in part of the application that issued as USP 6,648,535. The subject matter of the claims is directed to that newly added material. It does not appear in the parent case. Thus, there is no support for that added material in the parent case that would have allowed claiming those features. Those features also are not obvious.

Second, there are no allowed claims in the present application. Applicant will reserve his further response, as by filing of a Terminal Disclaimer, pending favorable action on the pending claims.

Claim Rejections - 35 USC 102

Claims 1-15, 18 and 19 are rejected under 35 USC 102(b) as being anticipated by Swan (4,144,658). This rejection is traversed for at least the following reasons.

The invention as defined by claim 1 expressly requires "particulate material comprising micro-sphere in air." The Swan patent teaches microbeads in a viscous material such as wax or oil (col. 9, lines 37-47 and col. 10, lines 25-37). There is no teaching of microbeads in air.

The difference is significant as there are many factors that are affected by the use of viscous liquids, including weight, heat transmission and response to force. In the latter case, when you compress a viscous material, hydraulic pressure is generated uniformly in all areas, while when a particulate material in air is compressed, the result is a packing of the material in critical points. The result is a better form and better fit.

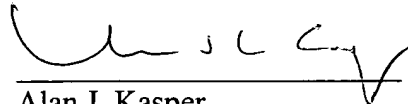
All of the remaining claims depend from claim 1, directly or indirectly, and would be patentable for the reasons given for claim 1..

Amendment Under 37 CFR 1.111
10/673,468

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,


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